

REMARKS

In the Official Action of November 3, 2008 the Examiner rejected Claims 1–8 under 35 U.S.C. 102(b) as being anticipated by Furusawa U.S. Patent Application Publication 2001/0041901, and rejected the remaining Claims 9–20 under 35 U.S.C. 103(a) as being obvious over the Furusawa Patent Application Publication in view of a number secondary references.

With respect to the rejection of Claims 1–8 under 35 U.S.C. 102(b), it is submitted that the main independent claim, namely Claim 1, as previously presented, clearly distinguished over Furusawa, but nevertheless Claim 1 has been amended in order to even more sharply distinguish over this reference. The same amendment has been made to independent Claim 13. In addition, the specification has been amended in order to better conform to the language now used in the claims. None of these amendments involved the introduction of any new matter, since the feature more clearly defined by these amendments is clearly present in all the disclosed embodiments, as apparent from the drawings.

Favorable reconsideration of the application is respectfully requested in the light of these amendments, and the following remarks.

The introductory portion of the specification brought out many drawbacks in the known implements of this type for manipulating a knotted suture to properly locate the knot thereof with respect to the tissue being sutured, and then for removing excess suture from the knot. These drawbacks avoided by the present invention, wherein the distal end of the implement shaft is formed with an open slot starting from a location spaced from the end face and leading to the recess in the end face, such as to enable the knotted suture to be introduced into the slot and the recess by effecting a sidewise movement of the knotted suture with respect to the shaft, or vice-versa.

The term “open slot”, as used above, means that the slot extends along the outer surface of the shaft to the recess, which would be required to enable the knotted suture to be introduced into the slot and the recess by the sidewise movement. Since this feature, as well as the function played by this feature, clearly distinguish over the primary reference, Furusawa, the two independent Claims 1 and 13 have been amended to more sharply bring out this feature and the function performed by it distinguishing over the

primary reference. Thus, the distal end of the shaft in Furusawa, in all the disclosed embodiments, is of a different structure and does not provide the advantages of applicant's structure, as defined in these independent claims.

The Examiner referred particularly to the embodiment of Figs. 19a–19c, wherein element 3 is considered to be the recess, and elements 4, 5 are considered to be the “open slot”. Figs. 19a–19c Furusawa represent the fourth embodiment of the invention therein disclosed, wherein element 3 is an axially-extending hole, elements 4 are side holes extending at right angles to hole 3, and element 5 is a gap portion connecting hole 3 to the side holes 4. The suture is applied by manually inserting it through the front hole 3 and then through the side hole 4 via the gap portion 5. This is clear throughout the description, for example, paragraphs 43, 46, 76 and Claim 1. That this structure and mode of use is also present in the fourth embodiment illustrated in Figs. 19a–19c is clear from the latter portion of paragraph 76.

Thus, Furusawa does not include an open slot extending along the outer surface of the elongated shaft in the recess, as now clearly defined in the two independent claims of the present application, and therefore would not be able to perform the function of the structure, namely to enable the suture to be applied in a sidewise movement, as also set forth in these independent claims.

For the foregoing reasons, it is submitted that independent Claim 1 is clearly allowable under 35 U.S.C. 102 over Furusawa.

Claims 2–8 all depend from Claim 1, and are therefore submitted to be allowable with that claim apart from the further features set forth. These claims, however, recite the even further features not shown or rendered obvious from the reference. For example, dependent Claim 3 recites that the open slot is formed with a first section leading from the recess towards the proximal end of the elongated shaft, and a second section leading from a juncture with the first section towards the distal end of the elongated shaft, but terminating short of the end face. The juncture thus defines a bend for the feature to permit sliding the suture within the slot. Such a structure is also clearly absent in Furusawa, and therefore it is submitted that Claim 3 is allowable over this reference for this reason, in addition to the reasons set forth above with respect to Claim 1, from which Claim 3 depends.

Independent Claim 13 has been amended, as Claim 1, to more sharply distinguish over Furusawa, and is therefore believed to be allowable over that reference, both under 35 U.S.C. 102(b) as well under 35 U.S.C. 103(a), since none of the secondary references relied upon in the rejection under 35 U.S.C. 102(b) discloses the structure and advantages discussed above distinguishing over Furusawa.

The remaining claims 14–20 all depend from Claim 13, and are therefore also believed to be allowable with that claim, apart from the further features set forth in the respective dependent claims.

As indicated earlier, the specification has been amended merely to conform the language to that now used in the claims, namely to make more explicit that which was clearly described in the original disclosure.

In view of the foregoing, it is believed this application is now in condition for allowance, and an early Notice of Allowance is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Martin D. Moynihan".

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Date: January 26, 2009